

ISSUE #1

MARKUP #1 ->

MARKUP #1 · FAIR HOUSING ACT (FHA) LIABILITY RISK

BOARD & COUNSEL REVIEW

Sec. POOLRULES (p. 4): Pet restriction clause lacks mandatory statutory carveout for assistance and emotional support animals.

Statutory / Legal Reference: 42 U.S.C. § 3604(f)(3)(B) & 24 C.F.R. § 100.204 (Fair Housing Act - Assistance Animals) & HUD FHEO-2020-01

Statutory Comparison: Under federal Fair Housing Act regulations (42 U.S.C. § 3604(f)(3)(B), 24 C.F.R. § 100.204, and HUD Notice FHEO-2020-01), associations cannot apply pet restrictions, breed bans, weight limits, or pet fees/deposits to an individual with a disability who requires a service animal or emotional support animal.

CURRENT WORDING IN DOCUMENT:

Pets are not allowed within the pool areas. Skateboards, scooters, roller blades/skates, bicycles, and motorized cycles are not permitted * i n the pool areas. * Food and Drink * Food m a y only be consumed i n areas at least 6 feet away from the pools.

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

Provided, however, that these pet restrictions, breed prohibitions, weight limitations, and pet fees shall not apply to verified assistance animals, including service animals and emotional support animals required as a reasonable accommodation under the Fair Housing Act (42 U.S.C. § 3604(f)(3)(B); 24 C.F.R. § 100.204; HUD Notice FHEO-2020-01).

- If multiple lap swimmers are present, lap swimmers must share the lap lanes. “Splitting a lane” for two swimmers or “circle swimming” for three or more swimmers in a lane is permitted.

➤ Guest Policy

- A Plum Creek family can bring up to 4 non-resident guests, provided that one of the resident attendees is over 18 and has a Rec Tag and pool access card.
- An authorized guardian (e.g., caregiver, nanny) may obtain a Rec Tag with written consent by a Plum Creek resident. This guardian is not counted as a guest.
- Accommodations for additional guests must be made in advance with the Plum Creek HOA office.

➤ Prohibited Items

- No glass containers allowed in the pool areas.
- ~~Tobacco, drugs, and firearms are prohibited.~~
- Pets are not allowed within the pool areas.
- Skateboards, scooters, roller blades/skates, bicycles, and motorized cycles are not permitted in the pool areas.

➤ Food and Drink

- Food may only be consumed in areas at least 6 feet away from the pools.
- ~~No chewing gum.~~
- Alcohol is prohibited.

➤ Flotation Devices

- Only Coast Guard-approved flotation devices such as puddle jumpers, life vests, and other flotation devices may be used for non-swimmers.
- Baby floats are permitted for small children, ages 2 and under, as long as the child remains within arm’s reach of a parent or guardian.

➤ Pool Hygiene

- Showering before entering the pools is strongly encouraged.
- Persons with open sores, wounds, bandages, or communicable diseases are encouraged to refrain from using the pool.
- Do not use the pool if you or your child has had diarrhea in the previous two weeks.

➤ Conduct and Behavior

- Dangerous, intoxicated, unreasonable, or offensive behavior, as well as any behavior in opposition to posted signage or approved pool rules, is not allowed and is reportable to the Plum Creek HOA office.
- Running, hopping, skipping, and speed walking are not permitted.
- Flipping into the pools is not permitted.
- Diving is not allowed unless under the direct supervision of a certified instructor, and only shallow racing starts are permitted.
- No athletic balls are permitted for use in or around the pool area. Only toys and balls that are soft in nature will be allowed. All toys, including pool toys deemed to be unsafe by pool monitors or HOA management, will be restricted.
- All weak swimmers and persons who are not trained to swim must remain within arm’s reach of a parent or guardian. Swimming ability may be assessed at the discretion of pool monitors or HOA management.
- Swim safely and treat others as you would like to be treated.
- Climbing/sliding on handrails or fencing is not permitted.
- Pool furniture should not be submerged in the pools.
- Safety equipment and pool furniture are for their intended purposes only; safety equipment is for emergency use only.